

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|---|----------------------------------|
| CEPRANO BRIDDELL, | § | |
| | § | No. 402, 2011 |
| Defendant Below, | § | |
| Appellant, | § | Court Below—Superior Court of |
| | § | the State of Delaware in and for |
| v. | § | Sussex County |
| | § | |
| STATE OF DELAWARE, | § | |
| | § | |
| Plaintiff Below, | § | C.A. No. S11M-06-005 |
| Appellee. | § | |

Submitted: September 19, 2011

Decided: September 27, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

O R D E R

This 27th day of September 2011, it appears to the Court that:

(1) On June 7, 2011, the plaintiff-below/appellee, State of Delaware, filed a Motion to Designate the Defendant as a Tier III Sex Offender with respect to the defendant-below/appellant, Ceprano Briddell.¹ Briddell was an out-of-state registered sex offender in Delaware.² By order dated July 1, 2011, the Superior Court granted the State's motion and designated Briddell as a tier III sex offender.

¹ See Del. Code Ann. tit. 11, §§ 4121(a)(4)c., (n) (2007 & Supp. 2010) (requiring that the State assign tier designations to qualifying sex offenders convicted out of state).

² Briddell was a registered sex offender in Maryland after his 2007 guilty plea to forcible sodomy.

(2) On August 4, 2011, Briddell filed a notice of appeal from the Superior Court's July 1, 2011 order designating him as a tier III sex offender. On the face of it, Briddell's notice of appeal was untimely filed. Pursuant to Supreme Court Rule 6, the appeal should have been filed within thirty days of the July 1, 2011 order, *i.e.*, on or before August 1, 2011.³

(3) "Time is a jurisdictional requirement."⁴ In Delaware, an untimely appeal cannot be considered unless an appellant can demonstrate that the failure to timely file a notice of appeal is attributable to court-related personnel.⁵

(4) On August 5, 2011, the Clerk issued a notice directing that Briddell show cause why the appeal should not be dismissed as untimely filed.⁶ Briddell filed a response to the notice to show cause on September 6, 2011.

(5) In his response to the notice to show cause, Briddell acknowledges that he received the order designating him as a tier III sex offender, but he claims that he did not receive the State's underlying motion. Briddell also states that his probation officer told him on July 29, 2011 that he "should have been given a hearing" on the State's motion.

³ Del. Supr. Ct. R. 6(a).

⁴ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

⁵ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁶ Del. Supr. Ct. R. 29(b).

(6) At the request of the Court, the State filed an answer to Briddell's response to the notice to show cause. The State argues that, under Briddell's circumstances, the untimeliness of this appeal is not attributable to court-related personnel, and therefore the appeal must be dismissed.

(7) Having carefully considered the parties' positions, the Court concludes that the State's position is correct. Under Delaware law, a notice of appeal must be received by the office of the Clerk within the thirty-day time period to be effective.⁷ Briddell does not contend, and the record does not reflect, that his failure to timely file his notice of appeal is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁷ Del. Supr. Ct. R. 10(a).